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KIMBERLY J. HUSTED

UNITED STATES BANKRUPTCY COURT

EASTERN DISTRICT OF CALIFORNIA

IN RE: WILLIAM PAUL GRIZZELL and SHEILA EARLINE GRIZZELL, Debtors.	**NO: 10-35701-C-7** **DC No.: SCB 3** **CHAPTER 7 TRUSTEE KIMBERLY J. HUSTED'S MOTION TO COMPROMISE CONTROVERSIES** **Date: April 4, 2017** **Time: 9:30 a.m.** **Place: Department C** **The Honorable Christopher M. Klein**

Chapter 7 Trustee Kimberly J. Husted moves for authorization to compromise two controversies. The first controversy is the Debtors' product liability lawsuit in the United States District Court For The Southern District of West Virginia, Charleston Division, entitled *IN RE: C.R. Bard, Inc., Pelvic Repair System Products Liability Litigation*, MDL No. 2187 (the "Lawsuit") that is based on allegations relating to injuries and medical expenses Ms. Grizzell incurred as a result of a defective transvaginal mesh product that she had implanted on July 16, 2007.

The second controversy involves the dispute between the Debtors and the Trustee regarding distribution of the settlement proceeds (the "Dispute"). Ms. Husted asserts that the Lawsuit is property of the bankruptcy estate as Ms. Grizzell had the defective product implanted prepetition. However, the Debtors contend that their interest in the Lawsuit is not property of the bankruptcy estate because Ms. Grizzell's medical complications from the defective mesh product began postpetition (the "Dispute").

Under the proposed compromise of the Lawsuit (the "Compromise"), defendants have agreed to pay the gross settlement amount of $86,238.00 (the "Lawsuit Settlement Amount"). Disbursements and out of pocket expenses total $43,479.73 as follows:

Attorney's Fees (40%):	**$34,495.20**
MDL Fee (4% of gross to be withheld)	$3,449.52
CL&H (36%)	$31,045.68
Out of Pocket Expenses:	**$2,171.73**
MDL Fee (1% of gross to be withheld)	$862.38
Common Expenses (pro rata share)	$168.09
CL&H Expenses	$1,141.26
Expenses/Liens:	**$6,812.80**
Bankruptcy Coordination Fee	$500.00
Medical Lien-BS California (to be withheld)	$6,312.80

The MDL Fee is a total 5% ($4,311.90) court assessment that is to be withheld along with the Medical Lien-BS California ($6,312.80). The MDL Fee and Medicare lien to be withheld are based on the Attorney Participation Agreement and Pretrial Orders 84 and 112 sanctioned by the presiding United States District Court and appear to be fair and reasonable. The bankruptcy estate will receive the balance of $75,613.30 (the "Net Settlement Amount").

In addition, under the terms of the proposed Exemption Settlement, the parties agree that upon receipt of the Net Settlement Amount, Ms. Husted shall pay the Debtor $24,258.27. The bankruptcy estate shall retain the remaining balance of the Net Settlement Amount, $51,355.03, of which $32,855.03 is for payment of the CL&H attorneys' fees and costs, and the remaining $18,500.00 is for the estate's professional fees and distribution to the unsecured creditors of the bankruptcy estate.

The Trustee believes the compromises are in the best interests of the estate and the Court should approve them under Federal Rule of Bankruptcy Procedure 9019(a) and should grant such other relief as is just and proper.

Dated: February 23, 2017

SCHNEWEIS-COE & BAKKEN, LLP
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By: *__/s/ Loris L. Bakken__*
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KIMBERLY J. HUSTED